Senate Bill 1933 (Vasconcellos) Chapter 619
California Commission on Tax Policy in the New Economy

Effective January 1, 2001. Adds and repeals Part 18.3 (commencing with Section 38061) of Division 2 of the Revenue and Taxation Code.

This measure makes various findings and declarations regarding the rapidly changing technology and its impact on California's economy, and states "There is a need to reevaluate our entire system of tax policies and collection mechanisms in light of the new economy." This measure creates the California Commission on Tax Policy in the New Economy comprised of nine voting members, five appointed by the Governor, two appointed by the President pro Tempore, and two appointed by the Speaker of the Assembly. In addition, ex officio members of the Commission include the chair of the BOE, the executive officer of the Franchise Tax Board the Director of Employment Development, the chair of the California Public Utilities Commission, the Director of Finance, the Controller, a public member of the California Economic Strategy Panel, and the chairs of both the Senate and Assembly Revenue and Taxation Committees.

The Commission is charged with conducting public hearings to address Internet taxation, and study and make recommendations regarding specified elements of the California system of state and local taxes, including, but not limited to, the sales and use tax, telecommunications taxes, income taxes, and property taxes.

With respect to the property tax, this bill requires the Commission to (1) investigate the revenue repercussions for local government in assessment of real property, assuming changes in the trends of real property versus personal property utilization, (2) examine the effects of electronic commerce activity on land-based enterprises in the new economy, and (3) evaluate the impact on local economic development approaches and consider what new tools could be used.

The commission must submit an interim report to the Governor and the Legislature at least 12 months from its first public meeting, and a final report with recommendations at least 24 months from its first public meeting.

This bill will be repealed on January 1, 2004.

Sponsor: Senator John Vasconcellos

Law Prior To Amendment:

Under current law, the California Internet Tax Freedom Act (Chapter 351 of 1998) specifies that the state may not impose or attempt to collect any tax on Internet access for three years beginning January 1, 1999. However, any existing tax, including any sales and use tax that is imposed in a uniform and nondiscriminatory manner, as specified may be imposed. This means that state and local governments may impose sales and use taxes on all Internet sales, provided that the tax and its rate are the same as that which would be imposed on transactions conducted in a more traditional manner, such as over the phone or through mail order. Sales and Use Tax Law requires persons to pay use tax, as measured by the purchase price of the property, to the Board of Equalization (BOE) on purchases of tangible personal property for use in this state from out-of-state retailers. Persons who purchase items for use in this state from out-of-state retailers *who are engaged in business in California* pay use tax to the retailer, who must remit the use tax to the BOE.

Under current federal law, a three-year moratorium was also imposed on new Internet access taxes or other levies on electronic commerce, and expires in October 2001. That legislation also created the Advisory Commission on Electronic Commerce (ACEC) to study federal, state, local, and international taxation and tariffs on transactions using the Internet and Internet access. The ACEC's 19 members include three governors, heads of several major information technology corporations, and other government and business leaders from across the nation, including Board of Equalization Chair Dean Andal. The Commission issued a report to Congress on April 3, 2000.

Comments:

1. **Purpose.** To address the collection and administration of taxes in the 21st century technology-dependent economy.

2. **The ACEC was created by Congress to study this issue.** The ACEC obtained at least majority approval on the following concepts: (1) Extend the current moratorium on multiple and discriminatory taxation of electronic commerce for an additional five years, through 2006. (2) Prohibit taxation of digitized goods and their non-digitized counterparts to protect consumer privacy on the Internet and prevent the taxation of all services, entertainment, and information in the U.S. economy (both on the Internet and on Main Streets across America). (3) Make permanent the current moratorium on Internet access taxes, including those access taxes grandfathered under the Internet Tax Freedom Act. (4) Establish "bright line" nexus standards for American businesses engaged in interstate commerce, since the cyber economy has blurred the application of many nexus rules, and American businesses need clear and uniform tax rules and definitions before being exposed to business activity and sales and use tax collection obligations. (5) Encourage state and local governments to work with the National Conference of Commissioners on Uniform State Laws to simplify their own telecommunications and sales tax systems to ease burdens on interstate commerce. (6) Respect and protect consumer privacy in crafting any laws pertaining to online commerce generally and in imposing any tax collection and administration burdens on the Internet specifically. Their final report is available on-line at http://www.ecommercecommission.org./report.htm.

3. **Other organizations have already been formed to address tax administration in the new economy.** In addition to the ACEC, the Multistate Tax Commission (MTC), of which the BOE is a member, developed the Sales Tax Simplification Project to address sales tax simplification for all sales tax states. The minutes from these conferences are posted on the MTC website (http://www.mtc.gov). The Organization for Economic Cooperation and Development (OECD), which is comprised of the United States and 28 other countries, is actively addressing taxation issues related to e-commerce from an international perspective (http://www.oecd.org). The National Tax Association (NTA), an association of government officials, tax practitioners, business representatives, and academicians includes a Communications and Electronic Commerce Tax Project that issued its final report in September 1999 (http://www.ntanet.org). The Electronic Commerce Advisory Council (ECAC), which was created by Governor Pete Wilson by Executive Order W-175-98, released a report in November 1998 (http://www.e-commerce.ca.gov). And the Legislative Analysts Office issued its report, California Tax Policy and the Internet, in January 2000 (http://www.lao.ca.gov). In addition, many other states and organizations have become involved in Internet tax policy and numerous reports, with varying conclusions and recommendations, have been published on the topic.